

No. 49838-3-II

COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

RALLAND LEROY WALLACE and DARLENE WALLACE
and the Marital Community composed thereof,

Appellants,

vs.

CHEHALIS SCHOOL DISTRICT, a local government entity,

Respondent.

Lewis County Superior Court Cause No. 16-2-00219-21

Honorable Judge James W. Lawler

Appellants' Reply Brief

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TABLE OF AUTHORITIES

WASHINGTON STATE CASES

Marsh v. General Adjustment Bureau, 22 Wn.
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ARGUMENT

The District contests Mr. Wallace's claim that the facts of this case are stronger than those in *Marsh v. General Adjustment Bureau*, 22 Wn. App. 933, 592 P.2d 676 (1979) by arguing that in *Marsh* there was a dispute regarding what was said. Mr. Wallace disagrees, because in *Marsh* the plaintiff was going to have to prove a representative of the college made certain statements, and only if the plaintiff proved those statements were made would the question whether the plaintiff was reasonable in delaying action be reached. In our case, on the other hand, the relevant facts are apparently not disputed by the District:

- (1) Plaintiff was told the district had insurance to cover this sort of thing.
- (2) Plaintiff visited the District office several times inquiring about the situation.
- (3) During those visits, the District personnel could not find the paperwork.
- (4) Paperwork was filled out in November, 2015 by District employees, which was almost three years afterwards.

Mr. Wallace has less to prove, then, than the plaintiff in

Marsh (reasonableness only, as opposed the facts and reasonableness).

The District also takes Mr. Wallace to task for referring to the form that was filled out as a "claim form" rather than an "accident report". It does not make any difference to Mr. Wallace's arguments and position what the document is called. The point is that, almost three years after the event, the District was gathering and recording information about the event. That conduct supports the reasonableness of Mr. Wallace's reliance on his understanding that a claim for his injuries was being processed no matter how the document is labeled.

CONCLUSION

For these reasons, the decision of the trial court should be reversed.

DATED this 29th day of June, 2017.



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CERTIFICATE OF SERVICE

I certify that on today's date:

I mailed a copy of Appellants' Reply Brief, postage prepaid to:

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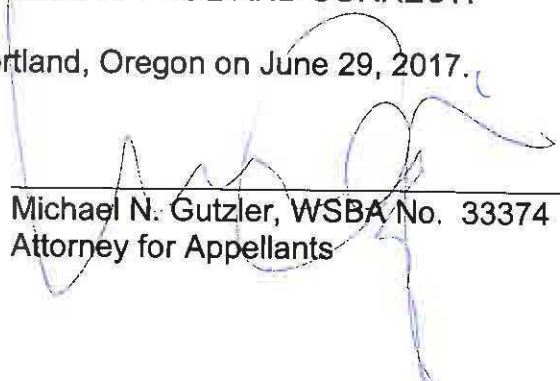
With the permission of the recipients, I delivered an electronic version of the Brief, using the Court's filing portal, to:

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I filed the Appellants' Reply Brief electronically with the Court of Appeals, Division II, through the Court's online filing system.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

Signed in Portland, Oregon on June 29, 2017.



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